

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Joseph C. Elliott,)	
)	
Petitioner,)	Case No. 1:04-CV-780
)	
vs.)	
)	
Patrick Hurley,)	
)	
Respondent.)	

Order Adopting Report and Recommendation

On October 13, 2005, United States Magistrate Judge Timothy S. Black issued a Report and Recommendation pursuant to which he recommended, *inter alia*, that Petitioner's motion for leave to stay these proceedings (Doc. 15) be denied and that Petitioner's petition for writ of habeas corpus (Doc. 3) be dismissed. Petitioner has not objected to the Magistrate Judge's recommendation within the time allotted, and the Court finds no plain error in the Magistrate Judge's analysis. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation in its entirety. See Fed. R. Civ. P. 72(b). Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is hereby **DISMISSED** with prejudice on the ground that Petitioner has waived his sole ground for relief. Petitioner's motion for leave to stay these proceedings (Doc. 15) is hereby **DENIED**.

A certificate of appealability shall not issue with respect to this Order because jurists of reason would not find it debatable whether this Court is correct in its procedural

rulings. See Slack v. McDaniel, 529 U.S. 473, 484-85 (2000). The Court hereby **CERTIFIES**, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this Order would not be taken in "good faith," and therefore **DENIES** Petitioner leave to proceed *in forma pauperis* on appeal. See Kincade v. Sparkman, 117 F.3d 949, 952 (6th Cir. 1997); Fed. R. App. P. 24(a). This action is **CLOSED**.

IT IS SO ORDERED.

_____/s/
Sandra S. Beckwith, Chief Judge
United States District Court